



MINUTES

Executive Board

**Seventh Meeting
2011 Interim
October 25, 2011**

**Room 413
State Capitol
Pierre, South Dakota**

The seventh 2011 interim meeting of the Legislative Research Council Executive Board was called to order by Chair Representative Charles M. Turbiville at 8:45 a.m. (CT), October 25, 2011, in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Joni M. Cutler (Vice Chair), Bob Gray, Jim Hundstad, Ryan Maher, Tom R. Nelson, Larry Tidemann, and Craig Tieszen; and Representatives Gene Abdallah, Lance Carson, Kristin A. Conzet, Marc Feinstein, Larry Lucas (Ranking Minority Member), and Charles M. Turbiville (Chair). Representatives Val Rausch and Mark E. Venner were excused.

Staff members present included Jim Fry, LRC Director, and Teri Retrum, Administrative Assistant.

(Note): For the purpose of continuity, these minutes are not necessarily in chronological order. Also, all material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). This meeting was web cast live. The archived web cast is available at the LRC web site at <http://legis.state.sd.us> under "Interim Information – Minutes and Agendas."

(Note): On Monday, October 25, 2011, the Legislative Interns Subcommittee met at 8:00 in the morning.

Approval of Minutes

SENATOR TIESZEN MOVED, SECONDED BY REPRESENTATIVE LUCAS, THAT THE MINUTES OF THE AUGUST 22, 2011, MEETING BE APPROVED. The motion prevailed on a voice vote.

Approval of Agenda

REPRESENTATIVE CARSON MOVED, SECONDED BY REPRESENTATIVE LUCAS, THAT THE EXECUTIVE BOARD ADD TO THE AGENDA INFORMATION REGARDING A TRANSPORTATION ISSUE. The motion prevailed on a voice vote.

Senator Craig Tieszen requested that the Board reconsider the number of interns hired for the 2012 Legislative Session and that the matter be added to the agenda.

Board members agreed to add Senator Tieszen's request to the agenda.

SENATOR TIDEMANN MOVED, SECONDED BY REPRESENTATIVE CARSON, THAT THE AGENDA BE APPROVED AS AMENDED. The motion prevailed on a voice vote.

At this time, **Representative Larry Lucas** asked whether any training seminars have been scheduled for December 6, 2011, which is the day of the Governor's Budget Address.

Mr. Jim Fry, LRC Director, said that no training seminars have been scheduled at this time; however, there will be some legislative meetings on that day.

Director's Report

Mr. Fry reported that, even though it is early in the cycle, the budget is on schedule. He asked Board members to remind colleagues of time constraints concerning a 35-day Legislative Session. Mr. Fry said that the deadlines will come quicker during the shorter session. He commented that LRC staff is in full drafting mode, and it would be helpful to get drafts to staff as soon as possible.

Mr. Fry introduced new staff member, **Amanda Reiss**, Legislative Attorney.

Reports of Interim Committees

(Note: Copies of each interim draft committee report are compiled and labeled **Document #1.**)

Agricultural Land Assessment Implementation and oversight Advisory Task Force

Mr. Fred Baatz, Principal Research Analyst, reviewed the Task Force's Final Interim Report.

Mr. Baatz reported that task force members expressed concern about the 10 percent limitation for annual increases and decreases in assessments for cropland and noncropland. He told the Board that many counties may never reach their full assessed value because the average for cropland provided by the assessment model used currently is increasing at a rate that is more than 10 percent.

Senator Joni Cutler asked if there would be a difference in tax revenue resulting from implementation of the new system.

Mr. Baatz said that there would not so much be more revenue realized, but there would be a switch from one revenue source to another—not as much of an increase in tax revenue but a tax shift, and there would not be a windfall to the schools in such a shift. Mr. Baatz said that discussion centered on getting more equalization among the assessments and relieving some of the disparities.

Also responding to Senator Cutler regarding a question concerning how other states handle these disparities, Mr. Baatz said, for instance, Iowa assesses ag land at 20 to 30 percent of fair market value due to a 4% limit on increases.

Mr. Baatz outlined the issues with which task force members had concerns on page 3 of the ag land report. Also, on page 3 of the ag land report, Mr. Baatz summarized the ag land

assessment practices in the surrounding states of Minnesota, Nebraska, Iowa, North Dakota, Wyoming, and Montana.

Legislation to amend the 10 percent limitation to a graduated system depending on deviation from full production value of cropland and noncropland was adopted by the task force to be introduced in the 2012 Legislative Session.

At this time, to address Representative Carson's motion to add to the agenda information regarding airplanes used by the state, **Mr. Jason Dilges**, Commissioner of the Bureau of Finance and Management told the Board that a decision was made to transfer funds from the Department of Human Services to the Department of Transportation to purchase replacements on some of the vehicles used by the state. He said that the largest airplane owned by the state needed two new engines, that became "timed out," at a cost of \$840,000.

Senator Jim Hundstad said that the Department of Legislative Audit found that the transfer did not meet the requirement that the Appropriations Committee be involved in such transfers. Senator Hundstad said that the transfers were not brought to the committee at the proper time. He expressed concern that the replacement parts were paid for without an appropriation for more funds. Senator Hundstad said that this type of expenditure should be budgeted.

Mr. Dilges said that this type of transfer has been done before without any auditory concerns. He stated that there is nothing hidden in this procedure, and it is widely recognized as an appropriate mechanism in state government. Mr. Dilges said that it was not that the engine replacement had not been budgeted, it was that there was not enough money budgeted.

Joint Committee on Appropriations

Senator Larry Tidemann, Co-Vice Chair of the Joint Committee on Appropriations, began the report of the committee by outlining the seven letters of intent issued by the committee. Senator Tidemann commented that two additional letters of intent were issued at the committee's June 3 meeting. The committee heard reports from several state agencies and LRC staff on budgetary matters.

Senator Tidemann reported that the committee decided to forego the East-and West-River Tours for this year due to financial constraints; however, the committee considers the tours valuable to the work of the committee, and the tours may resume next year, if financial circumstances permit. While taking a bus tour of Pierre and Ft. Pierre, the committee listened to a briefing by the Mayors of Pierre and Ft. Pierre on the flood damage to both cities.

Code Commission

Doug Decker, Code Counsel, reviewed the Code Commission's report and informed the Board that the Commission welcomed three new members to replace three members who were leaving the Commission. Also, Mr. Decker informed the Board that the Code Commission extended the contract with Thomson West for publication of the South Dakota Codified Laws (Code) for another year.

Executive Board

Chair Turbiville said that the Board was able to fund the interim studies and the redistricting special session. Among other items, the Chair stated that the Board instituted a limited out of state travel policy in its efforts to participate in the ten percent across-the-board state budget cuts. Chair Turbiville commended the members of the Executive Board and staff in its budgetary efforts and stated that some funds were reverted to the state general fund.

Considering the size of South Dakota and to maximize its ability to affect national issues, Board members expressed hope that the travel policy can be reconsidered so that South Dakota legislators can be part of the debate and provide input on the issues.

Government Operations and Audit Committee

Mr. Tim Flannery, Legislative Audit, distributed the "Report of the Government Operations and Audit Committee 2011" (**Document #2**).

Mr. Flannery reviewed the committee's activity, among which were audit reports. specific matters pertaining to various state agencies, juvenile corrections, testimony from the four technical institutions in regard to the impact the FY 2012 state budget had on their schools, and receiving testimony on the Missouri River flooding situation.

Senator Hundstad expressed his opinion that the fund transfer for the purchase of plane engine replacements needs to be revisited. There is a procedure regarding transfers—they need to be brought before the Appropriations Committee. Senator Hundstad said that the Government Operations and Audit Committee should request corrective action on this matter in its report; otherwise, it validates notification after the fact.

Senator Tidemann said that the Appropriations Committee does not approve transfers; the committee is made aware of the transfers. He said that the Commissioner of the Bureau of Finance and Management has the authority to transfer funds. Technology makes it possible to notify the committee immediately of transfers.

Rules Review Committee

Mr. Decker reviewed the committee's report. He said that the committee reviewed approximately 80 sets of rules, including rules from 27 of the executive branch agencies, licensing boards, and regulatory commissions.

Sales Tax Review Committee

Mr. Baatz informed the Board that the committee received lots of information from the Department of Revenue regarding sales and use tax exemptions. In the 2011 Fiscal Year, the sales and use tax generated over \$700 million in revenue for the state or about 18 percent of the total state budget. Mr. Baatz said that the revenue from the sales and use taxes is the primary revenue for the state.

The committee also heard information about the Streamlined Sales Tax Project and the history behind its development. Mr. Baatz said that it is projected that nationwide, state and

local governments will lose an estimated \$14.8 billion in FY 2012 due to the growth of electronic commerce and the inability of states to administer the use tax with consumers. He said that the provisions of the Streamlined Sales and Use Tax Agreement (SSUTA) are based on simplifying the administration of state sales tax, simplifying rates, create uniform definitions, and leveraging the use of technology. As of June 2011, there are 21 full member states and three associate member states in the SSUTA.

Mr. Baatz said that the public testimony provided generally related to organizations and individuals who were not in support of the repeal of certain sales and use tax exemptions and centered on the burden to administer the tax and the potential of lost business revenue or increased cost of the purchases.

Mr. Baatz said that the committee adopted legislation to:

1. Repeal the sales and use tax on coins, currency, and bullion;
2. Increase the excise tax on boats from 3 percent to 4 percent, which will generate about \$300,000 to be deposited in the general fund; and
3. Remove some outdated language and references to an excise tax regarding the sales and use tax.

Mr. Baatz commented the exemptions addressed by the committee are listed on the LRC website under interim committees, Tax Committee Documents.

Chair Turbiville, who was also Chair of the Sales Tax Review Committee, told Board members that he thought the committee would be able to address the repeal of more sales and use tax exemptions; however, that was not the case. Chair Turbiville said that it was a very interesting committee and thanked Mr. Baatz and Department of Revenue staff for all their work and the information they provided to the committee.

Representative Marc Feinstein said that the sales and use tax exemptions issue was voted very high on the interim study survey. He said that South Dakota does have almost the broadest sales tax exemptions structure in the United States, so the final outcome of the committee is surprising considering most all legislators thought it could find more revenue for the state.

State-Tribal Relations Committee

Tom Magedanz, Principal Research Analyst, that the committee held two meetings in Pierre and a third meeting with the Cheyenne River Sioux Tribe, where a tour was conducted of the new Indian Health Service Hospital and, new housing units that have been constructed for hospital personnel, and the tribe's nursing home facility.

Among other individuals, Mr. Magedanz said that the committee heard a briefing from Mr. J.R. LaPlante, newly appointed Secretary of the Department of Tribal Relations, which was established by the Governor as a cabinet-level department, on his goals and activities for the new department. Mr. LaPlante provided basic legal background that governs relations between the state and the tribes. He stressed that each tribe makes important contributions

to the State of South Dakota and that it is important for the state to deal with the tribes on an individual basis. Mr. LaPlante expressed interest in conducting a new state-tribal relationship study, since the last major study of this type was done in 1974-75.

Senator Tidemann asked when the nursing home was completed.

Senator Ryan Maher replied that the nursing home was completed about three years ago and is a wonderful facility.

Senator Tieszen said that the health facilities are impressive. Adequate staffing of these facilities remains an issue. Senator Tieszen said that, of course, Indian Health Services are important to the state because, if those services come up short, it trickles down to the state to fund. He commented that the committee was very well received in Eagle Butte and received very good information from the presenters.

In regard to staffing, Senator Maher said that there are 28 to 30 dental chairs and there is one dentist on staff so more needs to be done in that area.

Representative Lucas requested that the interim reports be posted to the LRC website and that a hyper-link to testimony received at all interim meetings be available.

Mr. Fry said that the interim report is in draft form but will be posted to the internet when it is approved by the Board. To the extent that testimony is available, it will be placed in the committees' document section on the website.

Department of Human Services Agency Review Committee

Senator Jean Hunhoff was Chair of the committee and addressed the Board via teleconference regarding its report.

Senator Hunhoff told the Board that the committee began its review by hearing from Department of Human Services staff regarding the department's mission, current structure following the department's recent reorganization, budget, services provided, and staffing.

Senator Hunhoff commented on the committee's tour of the South Dakota Developmental Center in Redfield followed by public testimony on the center. The second day of that meeting was held in Pierre and began with the committee listening to four different agencies that provide services to individuals with disabilities. After those presentations, the committee heard public testimony relative to the department. All testifiers spoke favorably of the work of the department.

Senator Hunhoff informed the Board the committee recommends that the Executive Board appoint a working group composed of no more than 15 members, including up to 4 legislators, and employees of pertinent state government agencies and community support providers to reassess the mission and programmatic offerings at the South Dakota Developmental Center, assess the potential for realignment of programs at the center in conjunction with the programs being offered in communities, assess and recommend the potential integration of other human service-related programs being offered by the state that would align with potential offerings at the center, and develop a time frame and long-range

plan for cost effective implementation of consumer-based services. The working group shall report its findings and recommendations to the 2014 Legislature.

Senator Hundstad proposed that perhaps the Governor also would be interested in appointing members to such a task force.

Responding to **Representative Kristin Konzet**, Representative Lucas said that a little over 400 acres of land and about 20 buildings comprise the development center's campus. He said that some of the land is used for outdoor activities, and there are residents who need in-house treatment; however Representative Lucas believes that the facility also could be used for other purposes.

Senator Hundstad said that the buildings are extremely old and are in need of repair and that maintenance is an issue.

Responding to Chair Turbiville, Senator Hunhoff agreed that it might be a good fit to combine a study of the Human Services Center with the developmental center; however, her intention would be to study them separately.

The Chair asked Senator Hunhoff if she would be willing to work with some members of the Executive Board to develop the type of task force needed for such a study.

Senator Hunhoff said that she would appreciate that opportunity.

Chair Turbiville appointed Senator Hunhoff as the chair of an Executive Board Subcommittee to develop the parameters of a task force to reassess the mission and program offerings at the South Dakota Developmental Center, assess the potential for realignment of programs at the center in conjunction with the programs being offered in communities, assess and recommend the potential integration of other human service-related programs being offered by the state that would align with potential offerings at the center, and develop a time frame and long-range plan for cost effective implementation of consumer-based services. The Chair directed that the subcommittee would report to the Executive Board at its December meeting.

In addition to Senator Hunhoff, Senator Hundstad and Representatives Konzet and Lucas will serve on the subcommittee.

The committee adopted style and form legislation to be introduced in the 2012 Legislative Session.

Wind Energy Competitive Advisory Task Force

Mr. Bezpaletz apprised the Board that sometimes task forces to which legislators and laypeople are appointed present problems for staff in scheduling and other matters. Mr. Bezpaletz outlined some of the difficulties involved.

Mr. Bezpaletz said that the task force did not adopt legislation but did make recommendations regarding wind energy.

The Board recessed at 10:50 a.m. and reconvened at 11:05 a.m.

Approval of the 2011 Interim Reports

Representative Lucas said that he does not have a problem with combining the Human Services Center and the developmental center in Redfield into one study.

Senator Bob Gray said that there have been committees comprised of legislators and laypeople in the past. He said that the 2011 Legislature passed a bill that included members of the public in the membership of the Wind Energy Competitive Advisory Task Force. In that regard, Senator Gray said that he supports appointing whoever would be able to help accomplish the assignments of a possible study regarding the Human Services Center and the developmental center in Redfield.

Representative Lucas said that the Executive Branch, members of affected communities, state agencies, etc., also should be involved.

Senator Hundstad commented that perhaps the Board could decide this issue at the end of 2012 Session after the subcommittee has more time to work on the logistics of such a task force.

REPRESENTATIVE CONZET MOVED, SECONDED BY REPRESENTATIVE CARSON, THAT THE EXECUTIVE BOARD APPROVE THE LEGISLATIVE RESEARCH COUNCIL'S FIFTY-FIFTH INTERIM REPORT. The motion prevailed on a voice vote.

Senator Cutler said that she would like to have a written outline or statement to consider concerning the logistics of a task force regarding the Department of Human Services Agency Review Report.

SENATOR TIESZEN MOVED, SECONDED BY REPRESENTATIVE CONZET, THE A WRITTEN STATEMENT REGARDING THE LOGISTICS OF A TASK FORCE TO STUDY THE SOUTH DAKOTA DEVELOPMENTAL CENTER AND POSSIBLY THE SOUTH DAKOTA HUMAN SERVICES CENTER BE PREPARED FOR PRESENTATION TO THE BOARD. The motion prevailed on a voice vote.

Chair Turbiville directed the subcommittee to report to the Board regarding the logistics of such a task force.

Appointments to the Dakota Corps Scholarship Board

With the consensus of Board members, Chair Turbiville said that he would ask Senator Gray and Representative Lust for recommendations of two Republicans and one Democrat in each Chamber regarding appointments to the Dakota Corps Scholarship Board. The Chair said that he would then assess the interest in such an appointment with those individuals. Chair Turbiville said that he then would bring forth those names to the Executive Board for review and appointment.

Chair Turbiville and Senator Hundstad agreed that the scholarship should be highlighted and there should be concerted efforts to make the public more aware of the Dakota Corps Scholarship.

To answer questions regarding meetings of the scholarship board, **Paul Turman**, Board of Regents, said that the first meeting is by teleconference; the second meeting is held during legislative session. Mr. Turman said that the goal is to schedule meetings to accommodate all members.

Selection of Agencies for Review during 2012 Interim

Senator Cutler said that 2012 might be a good time to review the South Dakota Human Services Center since it has been transferred to the Department of Social Services.

SENATOR TIDEMANN MOVED, SECONDED BY SENATOR TIESZEN, THAT THE DEPARTMENT OF HEALTH AND THE SOUTH DAKOTA HUMAN SERVICES CENTER BE COMBINED TO REVIEW DURING THE 2012 INTERIM.

Representative Abdallah stated that it is time to review the Bureau of Finance and Management since a review of that agency has been delayed for several years.

Mr. Fry said that there would be sufficient funding to fund two agency reviews, depending on how many interim studies are selected.

Senator Tidemann suggested that the Bureau of Finance and Management be delayed for one more year until all of the stimulus money is tracked and spent in order to develop a more complete review of that agency.

Senator Tidemann's motion prevailed on a voice vote. Representative Abdallah voiced the lone Nay vote.

Legislative Interns Subcommittee Report

As Chair of the Subcommittee, Senator Tieszen reported that intern applications have been received, and the interviewing process has begun. He said that there are 36 intern applicants for the 2012 Legislative Session. Senator Tieszen then completed the subcommittee report and moved to a discussion of the number of interns to be hired. Senator Tieszen discussed the value of having a full complement of interns and noted the larger number of applicants this year, many of whom appear to be well qualified.

After brief discussion, **SENATOR TIESZEN MOVED, SECONDED BY SENATOR TIDEMANN, THAT THE BOARD APPROVE HIRING 19 TO 22 OF THE INTERN APPLICANTS FOR THE 2012 LEGISLATIVE SESSION.**

REPRESENTATIVE ABDALLAH MADE A SUBSTITUTE MOTION, SECONDED BY SENATOR CUTER, THAT THE BOARD APPROVE HIRING 22 OF THE INTERN APPLICANTS FOR THE 2012 LEGISLATIVE SESSION AT A SALARY OF \$125 PER DAY. The substitute motion prevailed on a roll call vote with 11 voting AYE, 1 voting NAY, and 3 EXCUSED. Those voting AYE: Hundstad, Maher, Nelson, Tidemann, Tieszen,

Abdallah, Conzet, Feinstein, Lucas, Cuter, Turbiville. Those voting NAY: Carson. Those EXCUSED: Gray, Rausch, Venner.

Adjournment and Next Meeting Date

Chair Turbiville stated that the Executive Board will meet at 8:45 a.m., in Room 413, on December 6, 2011.

REPRESENTATIVE ABDALLAH MOVED, SECONDED BY REPRESENTATIVE LUCAS, THAT THE EXECUTIVE BOARD BE ADJOURNED.

The Executive Board adjourned at 11:50 a.m.

